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Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime
Second session
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Items 3 and 4 of the provisional agenda*
Consideration of the draft United Nations Convention against Transnational Organized Crime, with particular emphasis on articles 1-3
Consideration of the additional international legal instrument against trafficking in women and children

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Japan

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Proposal on article 3 of the revised draft United Nations Convention against Transnational Organized Crime*

Article 3
Participation in a criminal organization

1. Each State Party shall establish as criminal offences the following conduct:

(a) Organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group; and,

subject to the fundamental principles of its domestic legal system,

(b) At least one of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:

(i) Agreeing with one or more other persons to commit a serious crime involving an organized criminal group for any purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement;

(ii) Conduct by a person who intentionally, and with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes active part in:

a. Activities of an organized criminal group referred to in article 2 *bis* of this Convention;

b. Other activities of the group in the knowledge that the person's participation will contribute to the achievement of the above-described criminal aim;

(iii) Participation in acts of an organized criminal group that has the aim of committing a serious crime, in the knowledge that the person's participation will contribute to the achievement of the crime.

2. The knowledge, intent, aim, purpose or agreement referred to in paragraph 1 of this article may be inferred from objective factual circumstances.

* Incorporating into article 3, option 2, the comments by Japan in A/AC.254/5/Add.3.